

Congress of the United States
Washington, DC 20515

September 19, 2023

Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Administrator Brooks-LaSure:

In follow-up to our initial August 22nd request to which we have yet to receive a response, we write to express our strong, continued concern regarding the State of Texas's violation of federal Medicaid rules and obstruction of health care access for hundreds of thousands of Texas children, pregnant and postpartum women, cancer patients, seniors, and individuals with disabilities. Vulnerable and marginalized Texans are being denied access to a family physician, essential medications, maternity and postpartum care, mental health treatment, and more—endangering their lives and financial wellbeing. To protect beneficiaries, it is imperative that CMS intervene and require a pause on procedural terminations until Texas's faulty system undergoes a comprehensive audit and is brought into compliance.

With errors continuously discovered after beneficiaries have already lost their coverage, it is insufficient to conduct a narrowly focused audit or permit Texas to continue procedural terminations prior to the completion of an audit and all corrective actions. Such an audit should be conducted by federal personnel who are granted complete access to Texas's IT system and test all coverage groups and aspects of the renewal application. While CMS has worked with the State to restore coverage for most of the first 100,000 people identified who lost coverage in error, it took months to complete and the resulting disruptions were devastating for families cancelling necessary health care appointments throughout the summer. It is also unclear how many more consumers may have been erroneously terminated from the program. Just last week, the State acknowledged a new error was discovered in the ex parte renewal system that resulted in 24,000 children losing coverage instead of being placed into CHIP. These errors warrant swift federal intervention and a pause to ensure corrective action.

To date, nearly one million Texans have lost health coverage, more than twice the number of patients in any other state. About three-quarters (74%) of these denials of care were for procedural reasons, not due to a determination of actual ineligibility. Outrageously, Texas has terminated coverage for 69% of all beneficiaries who have undergone the redetermination process. This is the highest disenrollment rate in the Nation and only eleven other states have terminated coverage for more people than they have renewed.

Many of these coverage losses likely result from the failures in Texas's ex parte renewal process, which requires States to consult available data from other public benefits programs and

automatically renew Medicaid coverage for those deemed eligible. Only 2.4% of all beneficiaries slated for redetermination received a coverage renewal through the ex parte process. Federal law requires that each State must “to the maximum extent practicable establish, verify, and update eligibility using...data matching...and determine...eligibility based on reliable, third party data.” Texas’s shockingly low ex parte renewal rate, the second worst in the Nation and less than one-tenth the national average, demonstrates a clear failure to comply with federal law.

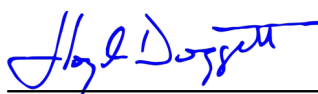
In North Carolina, a state that has also not yet expanded Medicaid eligibility, 79% of all beneficiaries who have undergone redetermination were renewed through the ex parte process. Two other non-expansion states have also met or exceeded the national average. All non-expansion states have an ex parte renewal rate over 10% except for Texas, Kansas, and Wyoming. It is clear that Texas’s highly restrictive eligibility criteria is not the sole basis for its very poor redetermination outcomes. It is imperative that CMS pause procedural terminations in Texas until the ex parte renewal system is audited and corrected to comply with federal law.

Despite our previous request to you that CMS act to protect the health of so many, approximately one million notices were mailed on September 9th for a third cohort of Texans to begin the redetermination process. The State believes these vulnerable beneficiaries remain eligible for Medicaid, but unless you intervene to ensure Texas’s faulty system is corrected, they will likely face the same devastating health care denials that nearly one million other Texans have already received since April.

To prevent more disastrous coverage losses and protect the health and due process rights of our many economically disadvantaged neighbors, we urgently request your intervention and an immediate pause of procedural terminations in Texas. A thirty-day extension for beneficiaries to complete paperwork does not fix the many IT issues continuously being discovered as more Texans are erroneously denied health care.

It is imperative CMS begin formal enforcement proceedings without delay to ensure procedural terminations are halted until Texas’s system is thoroughly investigated and corrected to comply with federal law, including ensuring compliance with ex parte renewal requirements. A few phone calls are completely insufficient as coverage hangs in the balance for one million Texans, the vast majority of whom are children and disproportionately from communities of color. Please act now. We stand ready to work with you, the State of Texas, and any willing partner to promote health equity and protect health care access.

Sincerely,



Lloyd Doggett
Member of Congress



Colin Z. Alfred
Member of Congress



Greg Casar
Member of Congress



Joaquin Castro
Member of Congress



Jasmine Crockett
Member of Congress



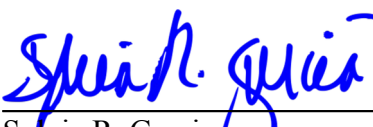
Henry Cuellar
Member of Congress



Veronica Escobar
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Lizzie Fletcher
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Marc A. Veasey
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CC: Xavier Becerra, Secretary of Health and Human Services

Daniel Tsai, Deputy Administrator and Director of Center for Medicaid and CHIP Services